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SUBJECT: OPPOSITION GAINS WITH ELECTORAL LAW PASSAGE

REF: A. LA PAZ 572
[B.](#) LA PAZ 557
[C.](#) LA PAZ 496

Classified By: Charge Kris Urs for reasons 1.4 (b, d)

[¶1.](#) (C) Summary: At approximately 4:00am on April 14, the Morales administration reached formal agreement with the opposition and passed the Electoral Transition Law (ETL), which establishes the rules for the December 6 national elections. The ETL directs the National Electoral Court to construct an entirely new electoral roll with biometric security features, to include Bolivians living abroad. Both President Evo Morales and the opposition can credibly claim victory after a grueling week-long debate. Morales has cast himself as a heroic figure willing to undergo a hunger strike for his base, while the opposition is re-energized after reaching its goal of a totally new electoral roll. Indigenous groups lost the most, having seen the number of reserved Congressional seats drop from initial proposals of over 20 to only seven. Attention now turns to December elections, and prospects for a MAS sweep of the presidency and both houses of Congress. End summary.

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ETL Contents
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[¶12.](#) (U) The Electoral Transition Law (ETL), as mandated by the constitution, establishes the rules for the December 6 election of the president, vice president, and members of the new Plurinational Assembly. The ETL as passed states that the president and vice president will take office on January 22, 2010 and will serve for a period of five years. (Note: Earlier legislation drafts had awarded an extra seven months to their terms, through August 2010, but this extension was deleted in the final law. End note.) The final legislation also allows sitting members of the legislature to run for office without resigning, contradicting the constitutional requirement that all legislators resign three months before elections.

[¶13.](#) (U) The National Electoral Court (CNE) will direct and verify the elections, including construction of an entirely

new electoral roll, in response to substantial opposition concerns of fraud in the old electoral roll. The new electoral roll will include all eligible voters in Bolivia and those living in 13 countries abroad, for a total of approximately 4.1 million eligible voters. The CNE is expected to spend up to USD 70 million in designing and implementing the new electoral roll system, which will be comprised of a database including facts related to each person's identity and biometric information including a digital photograph and fingerprints. The ETL calls specifically for participation by "multilateral organizations" including the European Union, the UN, and the OAS to assess the development of the new electoral roll.

¶4. (U) The opposition won as a concession that voting overseas would be conducted on a "test" basis. In the scheme approved by Congress, the total amount of voting from abroad is limited to six percent of the domestic voter roll, or approximately 230,000 voters. No more than 50 percent of the total vote from abroad may come from any one country, further reducing the expected impact of the vote from Argentina, which is expected to be heavily pro-MAS.

¶5. (U) Out of 130 seats in the lower house, or House of Deputies, only seven will be reserved for indigenous representatives. This figure was down from earlier drafts that indicated 14 seats would be reserved and far down from demands by MAS-affiliated social groups and unions for as many as 24. The CNE will determine the precise location of the seats, which will be located in seven of the country's nine departments, excluding Potosi and Chuquisaca. The final legislation eliminated the MAS proposal that all candidates for these seats first be approved by MAS-affiliated indigenous groups (reftel A). The CNE will publish by August 8 a map of all the reserved seats (and all "uninominal" or direct-vote seats, which will be based on the 2001 census).

¶6. (U) The ETL grants all political parties and other registered groups the right to inspect the electoral roll. After significant negotiation, the final legislation allows voters to register using any one of five recognized identity documents, which some members of the opposition said introduced uncertainty and potential for fraud into the new electoral roll. However, the ETL also states anyone using documents other than the national identity card will be first checked against the national registry, a step designed to eliminate the use of fraudulent or duplicate identities.

¶7. (U) Senate seats will be awarded based on the D'Hondt method of proportional representation (reftel A), which generally favors the MAS and could result in the MAS winning three out of four seats in several departments.

¶8. (U) The ETL attempts to guarantee electoral oversight at each electoral station, calling on electoral officials and public security forces to guarantee access to all political observers. The final draft prohibits those in public office from using public funds, projects, or propaganda/publicity to attract votes, and also from discounting public salaries to finance campaigns.

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So Who Won?
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¶9. (C) Over a week of tense negotiations, the Morales administration and the opposition battled over the electoral roll, voting from outside the country, indigenous seats, and many other items. With rumors of a siege of the Congress by MAS-affiliated social groups, potential entrance of security forces, and the closure of Congress all circulating widely before and during the negotiations, the atmosphere became increasingly confrontational. In the end, both sides can claim victory. The MAS avoided an opposition boycott and passed legislation enabling President Morales to run for his second term as president. Morales' hunger strike received wide coverage in the local press, and his administration and official press portrayed him as the "people's hero." By not

folding during negotiations, the opposition was able to exorcise, at least partially, memories of their defeat in the August 2008 revocatory referendum and their widely-panned participation in an October 20 compromise on then-draft constitutional text. The opposition seized momentum, if not outright victory, through their successful demand that the electoral roll be completely redone, something the MAS resisted but ultimately ceded.

¶10. (C) Indigenous groups are widely viewed as having lost the most during the final negotiations. Groups such as CONAMAQ (the National Council of Allyus and Markas of Qullasuyu) had demanded as many as 24 reserved seats but emerged with only seven. El Alto council member Roberto de la Cruz said, "we supported them, but we got nothing." Rumors circulated during the week-long negotiations that social group leaders pressured President Morales to support a siege of Congress and its eventual closure (to be blamed on the "obstructionist" opposition), but that the military would not support such action, leaving the social groups without options.

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Introducing Digital Fraud
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¶11. (C) While the opposition fought for a new electoral roll that would include biometric security elements, many still believed fraud would be a real danger. Constitutional expert Carlos Alarcon said the construction and transparency of the new electoral roll would be the "next pitched battle." Ex-Vice President and presidential candidate Victor Hugo Cardenas said, "if the biometric roll does not have an impartial administrator with a control from the political opposition, we will pass from a manual fraud to a digital one." And Cardenas campaign advisor Javier Flores said, "it doesn't matter if there is a fancy new biometric security system if the MAS are the only ones issuing and reviewing the identity documents. A computer-based system just makes easier for a few engineers to control the electoral roll and therefore the outcome of the election." Opposition party chief and former President Tuto Quiroga said that as long as Jose Luis Exeni is the CNE president, the opposition would not be able to trust the voter roll.

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Comment
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¶12. (C) However important the new electoral legislation is, it is only a prelude to the elections themselves. The MAS and President Morales are still very much favored to win in December, especially given the ruling party's propaganda apparatus, the fractured nature of the opposition, and the large number of challengers to Morales for the presidency. Still, opposition contacts seem revitalized by their ability to stand up to the MAS during negotiations and win significant concessions. The opposition now faces the almost insurmountable task of translating these gains into a viable campaign strategy. End comment.

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